

are not distinct. Applicant's process (group II) cannot be practiced by another materially different apparatus or by hand, and Applicant's apparatus cannot be used for a materially different process. (MPEP §806.05(e)).

Specifically, in the broadest claim (claim 20), the *apparatus* operates on a reagent, as a workpiece, and includes four elements: (1) reactant particles, (2) feedstock, (3) reactant particles/feedstock/reagent-flowing means, and

a sheet of material having a surface and defining a flow pathway, said sheet of material being formed into a spiral made of sequential turns, said flow pathway having a beginning and an opposing end and a spacing between sequential turns of said spiral, wherein said spacing is at least 1/8th inch;

Applicant's process in its broadest statement (claim 29) requires:

providing a sheet of material formed into a spiral having sequential turns, said spiral defining a flow pathway having a beginning and an opposing end and a spacing of at least 1/8th inch between said sequential turns;

feeding a feedstock and a reagent into said flow pathway at said beginning; and

feeding reactant particles known to react with said reagent and become polarized as a result into said flow pathway at said beginning,

No other *materially different* apparatus than that of claim 20 could be used to practice the method of claim 29, given the first step of claim 29, and no other *materially different* method could be practiced by the apparatus. Therefore, the inventions claimed in these two groups are not distinct. The Attorney for Applicant requests an example of either

a materially different apparatus for practicing the claimed method or a materially different process that can be used with the claimed apparatus.

The fact that a method and an apparatus may be found in separate classes is not dispositive in determining whether the inventions are distinct. Class 435, subclass 289.1, and class 210, subclass 601, contain patents having both method and apparatus claims. See for example, US patent 6,294,362, in class 435, subclass 289.1, and US patent 6,284,514, in class 210, subclass 601, both examined by the present Examiner.

Applicant respectfully believes this to be a proper and timely response to the Office Action. Applicant respectfully requests examination on the merits of the application. An early and favorable action to that effect is earnestly solicited.

Should any matter of form or language stand in the way of allowance of the present application, the undersigned respectfully requests a telephone conference to resolve such issues.

Please charge any deficiency in fees or credit any overpayment in connection with this Amendment to Deposit Account 080719.

Respectfully requested,

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